

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

REGINALD JEAN-FELIX,

Plaintiff,

-against-

**GREAT LAKES HIGHER EDUCATION
CORPORATION ET AL.,**

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#: _____
DATE FILED: 5/3/2023

21-CV-6122 (ALC) (RWL)

**ORDER ADOPTING
REPORT &
RECOMMENDATION**

ANDREW L. CARTER, JR., United States District Judge:

On October 23, 2019, *pro se* Plaintiff Reginal Jean-Felix commenced this action in the Civil Court of the City of New York. ECF No. 1. Defendant Pennsylvania Higher Education Assistance Agency d/b/a FedLoan Servicing removed the action to this Court on July 16, 2021. *Id.* On July 19, 2021, this matter was referred to United States Magistrate Judge Robert W. Lehrburger for general pretrial matters, including scheduling, discovery, non-dispositive pretrial motions, and settlement. ECF No. 22. The Court now considers a Report and Recommendation (“R&R”) issued by Judge Lehrburger recommending dismissal of this action for failure to prosecute under Rule 41(b) of the Federal Rules of Civil Procedure. ECF No. 45. For the reasons stated herein, the Court fully adopts the R&R and, therefore, this case is dismissed without prejudice.

As detailed in the R&R, Plaintiff failed to attend a pretrial conference scheduled for May 4, 2022. ECF No. 24. Defendant moved by letter motion on May 17, 2022, to dismiss the case for Plaintiff’s failure to prosecute, ECF No. 31, and the Court issued an order for Plaintiff to show cause why the case should not be so dismissed on May 23, 2022. ECF No. 32. Despite a letter filed by Plaintiff on June 14, 2022, asserting continued interest in prosecuting the action, ECF No. 34, Plaintiff again failed to appear for the re-scheduled initial pretrial conference on October 4,

2022. R&R at 2. Judge Lehrburger then issued another for Plaintiff to show cause why the case should not be dismissed for failure to prosecute and scheduled an in-person hearing for October 20, 2022. ECF No. 40. Plaintiff did not attend the order to show cause hearing. R&R at 2. To date, Plaintiff has filed no request for adjournment, nor has he taken any action in this case for several months.

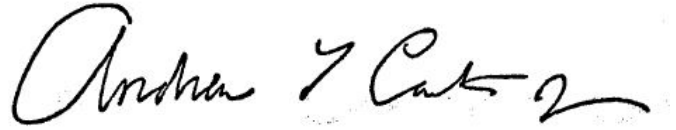
Dismissal under Rule 41(b) is a “matter committed to the sound discretion of the district court.” *Jenkins v. City of New York*, 176 F.R.D. 127, 128 (S.D.N.Y. 1997). The Second Circuit has cautioned that “pro se plaintiffs should be granted special leniency regarding procedural matters.” *LeSane v. Hall’s Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Nevertheless, “even pro se litigants must prosecute claims diligently, and dismissal . . . is warranted where the court gives warning.” *Griffin v. Capra*, No. 18-CV-10405 (KMK), 2022 WL 1003908, at *1 (S.D.N.Y. Apr. 4, 2022) (quoting *Jacobs v. County of Westchester*, No. 99-cv-4976, 2008 WL 199469, at *3 (S.D.N.Y. 2008)).

Despite notification of the right to object to the R&R, Plaintiff has filed no objections. After six months, Plaintiff has not sought an extension to object. Where no timely objections are made, the Court may adopt the R&R so long as there is no clear error on the face of the record. *Sacks v. Gandhi Eng’g, Inc.*, 999 F.Supp.2d 629, 632 (S.D.N.Y. 2014) (citing *Wilds v. United Parcel Serv.*, 262 F.Supp.2d 163, 169 (S.D.N.Y.2003)). The Court does not find any clear error.

Because Plaintiff has not objected to the R&R and the Court finds no clear error in the record, the Court hereby **ADOPTS** Magistrate Judge Lehrburger’s R&R in full. Accordingly, this case is **DISMISSED without prejudice**. The Clerk of Court is respectfully directed to terminate this case and mail a copy of this Order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: May 3, 2023
New York, New York

A handwritten signature in black ink, reading "Andrew L. Carter, Jr.", written in a cursive style.

ANDREW L. CARTER, JR.
United States District Judge